

June 21, 2000

## **Another Security Lapse at our Nation's Nuclear Weapons Labs** **Energy Dept.'s Nuclear Secrets: Lost and Found, Yet No One Can Say How or Why**

*"Americans can be reassured: Our nation's nuclear secrets are, today, safe and secure."*

— Secretary of Energy Bill Richardson, *USA Today* op-ed, 5/26/99

*"6 Suspended at Los Alamos; FBI Probes Disappearance of Computer Drives  
With Arms Secrets."*

— headline, *The Washington Post*, 6/14/00

After losing sensitive nuclear weapons design data last year, President Clinton's Department of Energy (DOE) last month admitted its loss of two computer hard drives containing secret nuclear bomb details. Weeks later, the drives mysteriously reappeared — but no one can yet say where they've been in the interim or why or even how long they've been missing. Perhaps a hearing before the Senate Armed Services Committee today in which Energy Secretary Bill Richardson will testify may shed some light on this serious security issue.

On June 16, the two drives — which were supposed to have been housed inside of a vault within a secure area at the Los Alamos National Laboratory (LANL) — were found behind a copy machine down the hall, and within an area previously scrutinized. In fact, according to LANL Director John Browne, on May 31 — the day Browne apparently was informed of the loss — officials searched that same lab, "turn[ing it] upside down for three days," with no results [*New York Times*, 6/13/00]. It remains unclear whether the drives were stolen or misplaced.

Amazingly, Los Alamos' Director Browne apparently was not immediately notified that critical nuclear weapons data were missing. The date he says he was informed, May 31, was three weeks after lab employees say they first noticed the drives missing [*See Chronology*, pp. 5-9]. The following day Browne informed Secretary Richardson of the loss. Meanwhile, the Associated Press yesterday reported that the drives may have been missing for as long as six *months*, as the last official written inventory documenting the location of the hard drives took place in January, 2000, as part of a Y2K inventory. [Secretary Richardson today testified that the FBI is now focusing on the end of March as the likely timeframe for the disks' disappearance.]

Clearly, insufficient security measures made such a disappearance possible. For instance, according to the FBI investigation which began on June 1, there were 26 lab employees who had unescorted access to the vault in question. In addition, numerous employees were permitted to go into the vault without having to record whether they were removing the hard drives, reported the Energy Department's security czar, retired General Eugene Habiger [*Post*, 6/14/00].

## **The Missing Data Drives: What, Why, and Where?**

The two hard drives, each the same size as a deck of cards, reportedly contained classified information on how to disarm various nuclear weapons, as well as intelligence data on some foreign bombs [*Washington Post*, 6/14/00]. The drives are part of a kit used by DOE's Nuclear Emergency Search Team (NEST), which is trained to rush to the scene of a terrorist threat or accident involving a nuclear device, outfitted with computer laptops, diagnostic equipment, and other tools to help them identify, and disarm or disable nuclear weapons from around the world. The data contained on the drives would provide information on how U.S. nuclear weapons work. As Senator Jon Kyl (R-AZ) noted on the Senate floor this week, this information in the wrong hands is potentially ominous: the knowledge of how U.S. technicians would go about dismantling or disabling a nuclear weapon would provide a terrorist with information on how best to circumvent such disabling and dismantling. The classified data might also give useful weapons design data to other countries or terrorists.

Who took the two hard drives and where have they been? Investigators are now probing "inconsistencies" about their whereabouts. The 26 people who have access to the vault all have undergone a polygraph test, and the FBI is focusing on a few individuals who made contradictory statements [Secretary Richardson, *Meet the Press*, 6/18/00]. Investigators apparently still are exploring the possibility that the drives had been taken elsewhere since last being seen and then returned to the room in which they were found only after news had broke and the investigation had begun [*Washington Times*, 6/17/00; *Washington Post*, 6/17/00].

Were they copied? Secretary Richardson recently stated that there was no evidence they had been, and no evidence either that the disks ever left the X Division [*Meet the Press*, 6/18/00]. But, in fact, there's no evidence either way. And even if these hard drives were not copied, this is still a significant security breach revealing that U.S. nuclear secrets are *not* "safe and secure."

The FBI will electronically analyze the disk drives to see if they've been tampered with or the information compromised, yet that may not reveal much: "If a skilled operator transferred data from one of the hard drives to another hard drive, that can't be discovered," according to a former Pentagon computer security expert [*Washington Post*, 6/19/00].

Interestingly, Division X of the Los Alamos National Laboratory is also the former place of work of Wen Ho Lee, the nuclear engineer who last year was accused of copying vast amounts of classified nuclear weapons data onto 19 computer tapes — 7 of which are still missing. In fact, several of Lee's supervisors are among the six Los Alamos managers who were put on paid

leave last week, pending results of the FBI investigation of this latest security breach [*Los Angeles Times*, 6/16/00].

## **Administration Initiatives Ineffective**

This most recent breach of security at LANL occurred despite a February 1998 Presidential Decision Directive (PDD-61) aimed at establishing tougher counterintelligence programs to address increasing concerns about the question of whether China had or was acquiring sensitive U.S. information, and despite a series of moves initiated by Secretary Richardson. These included:

- “Seven new initiatives to strengthen DOE’s counterintelligence efforts” [DOE Press Release, 3/17/99];
- “Additional measures to strengthen security at DOE sites” [DOE Press Release, 3/30/99]; and
- “A security reform package” [DOE Press Release, 5/11/99].

Obviously, the Administration’s policies have failed to adequately address the systemic security problems plaguing U.S. nuclear weapons labs, which hold the “crown jewels” of America’s nuclear secrets. This should come as no surprise since the President’s own independent Foreign Intelligence Advisory Board (PFIAB) a year ago declared that “the Richardson initiatives simply do not go far enough” [“Science At Its Best, Security At Its Worst: A Report on Security Problems at the U.S. Department of Energy,” President’s Foreign Intelligence Advisory Board, 6/99, p. 39]. The PFIAB called the Energy Department “a dysfunctional bureaucracy that has proven incapable of reforming itself.”

## **Democrats Obstruct Recommendations Made by President’s Own Intelligence Board . . . and the Law**

The PFIAB outlined the need to reorganize the DOE, “to resolve the many specific problems with security and counterintelligence in the weapons laboratories, but also to address the lack of accountability that has become endemic throughout the entire Department,” and it recommended “deep and lasting structural change that will give the weapons laboratories the accountability, clear lines of authority, and priority they deserve.” Specifically, the PFIAB recommended establishing a new, semi-autonomous agency within DOE exclusively to handle security issues.

An amendment with these sound recommendations — aimed at preventing the very type of security failure that recently occurred at LANL — was offered by Senators Kyl, Domenici, and Murkowski, to the FY 2000 Department of Defense Authorization bill. Due to a Democrat filibuster, the amendment was subsequently withdrawn, but was later offered as part of the FY 2000 Intelligence Authorization Act. The amendment passed by a vote of 96 to 1 on July 21, 1999. The language was then folded into the FY 2000 Defense Authorization Conference Report, which passed the House of Representatives on September 15, 1999, by a vote of 375-45

and the Senate on September 22, 1999, by a vote of 93-5. President Clinton signed it into law on October 5, 1999.

Since reform efforts began over a year ago, Secretary Richardson has opposed them at every opportunity. Even prior to Senators Kyl, Domenici, and Murksowki offering their reorganization amendment to the Defense Authorization bill in the Senate, Secretary Richardson warned in a May 25, 1999 letter to Senator Warner, Chairman of the Senate Armed Services Committee, that he would ask President Clinton to veto the bill if the amendment were included. He reiterated this point in a hearing before the Senate Intelligence Committee on June 9, 1999, by stating, "Let me be clear; if the amendment is included in the Intelligence Authorization bill, I will recommend that the President veto it." And in a June 22 hearing before the House Commerce Committee, Richardson raised concerns about creating an autonomous or semi-autonomous agency "especially if we're trying to solve the security and counterintelligence problems at the department."

The Secretary's resistance to reforming and restructuring the DOE continued even after the President signed the provision into law as part of the Defense Authorization Act. For instance, according to a DOE press release, Richardson moved forward in naming a search committee to find a head of the new semi-autonomous agency, the National Nuclear Security Administration (NNSA) *only* after, as the Secretary claimed, "Senator Domenici agreed to work to change the law to clarify and address an issue raised by Richardson and assure that he and future Energy secretaries have clear lines of authority and responsibility over the new agency" [DOE Press Release, 12/30/99].

The White House joined the fray by sitting on the nomination of General John A. Gordon to head the NNSA until May 3 of this year — a full *seven months* after the President signed the law establishing the NNSA. Further, Secretary Richardson "dual-hatted" several DOE employees to fill positions intended to be part of the NNSA — in complete contradiction to the law — which makes all employees of the new agency accountable to an undersecretary, but not to other Energy Department officials outside the agency.

But Democrat intransigence didn't stop there; Democrat Senators returned to obstructionist tactics by placing a "hold" on the confirmation of General Gordon for one month while trying to pressure Republican members to make changes to the FY 2001 Defense Authorization bill. Democrats finally allowed the confirmation vote to occur, coincidentally enough, two days after the story of the missing disks hit the papers.

And on the heels of this recent security lapse at LANL, Secretary Richardson refused to appear before a joint hearing of the Senate Intelligence and Energy Committees on June 14, 2000, but still found time in his day to speak at the National Press Club, to meet with the chairman of McDonald's, and to convene a meeting on recycling in his office [*Washington Post*, 6/16/00].

## **Where Do We Go From Here?**

The Senate, by approving legislation establishing the National Nuclear Security Agency and by voting to confirm General John Gordon, has led the way to address DOE's security problems head-on. Now it is up to the Administration to follow through on implementing the law to reform and reorganize the Department of Energy to make sure critical U.S. nuclear secrets are kept safe and secure. It's long overdue.

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## **CHRONOLOGY OF EVENTS**

### **1999**

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| March 17 | Secretary Richardson announces "seven new initiatives to strengthen [DOE's] ability to prevent the loss of sensitive information" [DOE Press Release].   |
| March 30 | Secretary Richardson orders additional measures to strengthen security at Department of Energy sites to deal with remaining problems for protecting nuclear materials and sensitive information, as outlined by a 1997/1998 DOE Security Report. Note, however, that the report concludes that "no nuclear materials at the sites (which included LANL) are at risk." [DOE Press Release]                |
| May 11   | Secretary Richardson unveils a security reform package which includes security and management and oversight overhaul, new counterintelligence and cyber-security measures, cyber-threat training, and zero-tolerance security policy. [DOE Press Release]  |
| May 25   | In light of the Cox/Dicks report, Secretary Richardson points out "dramatic progress in strengthening counterintelligence and security," and claims that "to counter that threat [to national security research facilities as a target of foreign intelligence services] we are putting in place strong measures to prevent the kinds of security breaches outlined in this report." [DOE Press Release] |

May 25	In a letter to Senator Warner, Chairman of the Senate Armed Services Committee, Secretary Richardson warned that he would ask President Clinton to veto the Defense Authorization bill if the DOE restructuring amendment were included [The Energy Daily, 6/7/99].
June 8	The Secretary of Energy's Advisory Board releases a report stating that foreign national visitors and assignees can safely have managed access to DOE's laboratories and other facilities without jeopardizing national security [DOE Press Release].
June 9	In a prepared statement before the Senate Intelligence Committee, Secretary Richardson writes with regard to the Kyl-Domenici-Murkowski DOE reform amendment, "I understand that some modifications have been made to the amendment. However, let me be clear: if the amendment is included in the Intelligence authorization bill, I will recommend that the President veto it."
June 15	The President's Foreign Intelligence Advisory Board (PFIAB) produces a report calling for reforming and restructuring the Department of Energy, and recommending a semi-independent agency for nuclear weapons matters.
June 16	Richardson names General Eugene E. Habiger, retired Commander in Chief of the U.S. Strategic Command, as "Security Czar"/director of a new high-level Office of Security and Emergency Operations. The new office consolidates all the department's security, cyber-security, chief information officer, counterterrorism and nuclear emergency response programs, and includes a new Office of Foreign Visits and Assignments Policy [DOE Press Release].
June 22	In a hearing of the House Commerce Committee, Secretary Richardson states, "I do have concerns about the creation of an autonomous or semi-autonomous entity, especially if we're trying to solve the security and counterintelligence problems at the department."
Fall	Congress, in the FY 2000 DoD Authorization bill, mandated that employees in four areas – Special Access Program, Personal Security Assurance Program, Personal Assurance Program, and Sensitive Compartment Information – be required to take a polygraph. According to the DOE, more than 13,000 employees work in these four categories [DOE Press Release, 12/13/99].
October	Richardson, in answering questions by Senators, states, "the buck stops with me. The President has asked me to remain in charge until there is a

new undersecretary and the President will hold me accountable and I intend to be held accountable.”

- October 5      FY 2000 Department of Defense Authorization Act, which includes provisions to create a new semi-autonomous agency within DOE to manage all U.S. nuclear weapons programs and providing clear lines of authority and accountability, is signed into law by President Clinton.
- December 13    Secretary Richardson limits the use of polygraphs to approximately 800 federal and contractor employees [DOE Press Release], from the 13,000 employees mandated by Congress [see item on page 6].
- December 30    Secretary Richardson appoints a panel to find a head of a new National Nuclear Security Administration. According to the press release, “Secretary Richardson moved forward in naming the search committee after Senator Domenici agreed to work to change the law to clarify and address an issue raised by Richardson and assure that he and future Energy secretaries have clear lines of authority and responsibility over the new agency” [DOE Press Release, 12/30/99].

## 2000

- January 25      Secretary Richardson releases three reports that outline DOE’s “significant progress in improving security of the nation’s nuclear secrets.” [DOE Press Release]
- March 1        The new National Nuclear Security Administration is formally established.
- April 7        A member of the laboratory team in June told investigators the drives were in the vault on this day when he conducted an inventory — but that cannot be confirmed through written records [*Agence France Press*, 6/15/00; *Washington Post*, 6/21/00].
- April 27        Energy Department Nuclear Emergency Search Team (NEST) member believes he may have seen the missing drives [*Washington Post*, 6/14/00].
- May 3        Two months after the NNSA is established, General Gordon’s nomination is received by the Senate from the White House. Gordon was selected to lead the NNSA.
- May 4        Forest fire, set purposely as a prescribed burn by the National Park Service at Bandelier National Monument, burns out of control and threatens Los Alamos National Lab in New Mexico.

May 7 As fire threatens the lab, a Nuclear Emergency Response Team (NEST) receives an order to remove the hard drives from a high security safe inside the lab. Two NEST members discover the hard drives missing but do not alert superiors [*Agence France Press*, 6/15/00; *Washington Post*, 6/14/00].

May 8-22 Authorities evacuate the lab.

May 12 Energy Secretary Richardson spends part of the day near Los Alamos, to assure the public that nuclear materials there are safe from the raging fires [*The San Diego Union-Tribune*, 5/12/00].

May 22 Lab reopens.

May 24 NEST members with knowledge of the loss begin a "full-scale search," and spend a week looking for the missing hard drives without telling anyone outside their group [*Agence France Press*, 6/15/00; *Washington Post*, 6/14/00; *Los Angeles Times*, 6/14/00].

May 31 NEST members fail to find the lost drives and notify lab director, John Browne [*Washington Post*, 6/14/00].

June 1 Director Browne formally notifies the Department of Energy headquarters regarding the security breach [*Agence France Press*, 6/15/00].

June 2 FBI notified of missing hard drives [*Agence France Press*, 6/15/00].

June 4 FBI sends agents to LANL [*Agence France Press*, 6/15/00].

June 4-10 General Habiger leads an on-site search for the missing hard drives, accompanied by 22 FBI agents and 12 DOE investigators, with no results. Those with access to the vault are questioned [*Associated Press*, 6/13/00].

June 5 Separate search was launched at another of the nation's nuclear labs, Lawrence Livermore National Laboratory in the San Francisco Bay Area [*Los Angeles Times*, 6/14/00].

Los Alamos Deputy Director of Security Gene Tucker says inventories of the other vaults and safes at LANL showed nothing else was missing [*Associated Press*, 6/14/00].

June 13 Six managers at LANL are suspended, placed on paid leave for failing to report immediately that the hard drives were missing from the vault. Government officials acknowledge that the FBI is conducting a criminal investigation into the disappearance of the two computer hard drives.



- June 13 Richardson announces the appointment of a presidential commission, headed by former Senator Howard H. Baker, Jr. and former Representative Lee H. Hamilton to inquire into the incident [*Washington Post*, 6/14/00; DOE Press Release, 6/13/00].
- Lab Director Browne orders a shut-down of organizations within Los Alamos that handle similar types of classified information or similar materials to double check their security procedures [*New York Times*, 6/13/00].
- June 14 Richardson fails to attend a joint Senate Energy and Intelligence Committee hearing on the missing nuclear data, but on this same day he delivers a speech at the National Press Club, meets with the chairman of McDonald's, and has a meeting on recycling.
- More than seven months after the bill establishing a semi-autonomous agency is signed into law, more than three months after the NNSA is established, and two days after news of the missing disk drives becomes public, the Senate confirms General John Gordon to the position of NNSA Director.
- June 16 Weeks after disappearing, two computer hard drives containing nuclear secrets are found behind a copy machine within LANL's X division, in a place that apparently had been searched before [*Washington Times*, 6/17/00].
- FBI begins to examine drives for fingerprints, and the devices are to be flown to Washington to be electronically scanned so investigators can determine definitely whether they are those that are missing and whether they had been tampered with or copied [*Washington Post*, 6/17/00].
- June 20 Media report that the disk drives may have been missing for up to six months, since the last official written inventory documenting the location of the hard drives took place in early January, 2000.
- June 21 Secretary of Energy Bill Richardson appears before the Senate Armed Services Committee.